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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/451,108	11/30/1999	WANG RAE KIM	K-119	8600

7590 05/19/2003

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EXAMINER

KUMAR, PANKAJ

ART UNIT

PAPER NUMBER

2631

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/451,108

Applicant(s)

KIM, WANG RAE

Examiner

Pankaj Kumar

Art Unit

2631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-9, 11 and 12.Claim(s) objected to: 16-18 and 20-22.Claim(s) rejected: 13-15 and 19.

Claim(s) withdrawn from consideration: _____.


8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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Applicant's argument that it is preferable for Kumar's phase shifter to be amplitude invariant does not mean that Kumar's phase shifter is amplitude invariant is respectfully traversed. Although Kumar does not write that the phase shifter is amplitude invariant, just as the applicant does not write that their invention works, it is inherent for a good phase shifter to be amplitude invariant just as it is inherent for applicant's good invention to work. For Kumar's invention to work properly, amplitude invariancy has to be necessarily present in its phase shifters. Phase shifters are meant to only shift the phase, as is termed as such.

Applicant's argument that the range of phases the applicant has specified is not optimum and therefore allowable is respectfully traversed. Since the applicant claimed a range of phases, the applicant is specifying that this range is optimum for its invention. It has been held that discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

The office respectfully traverses applicant's arguments regarding phase shift values. In one aspect, applicant's claim phase shifts between 0 and 360 degrees while the reference phase shifts between 0 and 90 and 0 and 180 degrees. In another aspect, applicant's claim phase shifts between 0 and 90 degrees while the reference phase shifts between 0 and 40 degrees. The office contends that it is a matter of design choice to choose the phase shift range.


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 5/16/03